

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5313 of 1983

WITH

SPECIAL CIVIL APPLICATION No 1191 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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AHMEDABAD MUNICIPAL CORPN

Versus

RELIANCE TEXTILE INDUSTRIES LTD  
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Appearance:

MR AR THAKKAR WITH JR NANAVATI for Petitioner  
MR AV TRIVEDI FOR AC GANDHI for Respondent  
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CORAM : MR.JUSTICE M.R.CALLA and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 06/04/99

COMMON ORAL JUDGEMENT

Both these Special Civil Applications have been filed by the Municipal Corporation of the city of Ahmedabad against the respondent-Reliance Textile Industries Limited challenging the common order dated 4th August, 1983 passed in M.V.Appeal Nos.1062 of 1982 and 2389 of 1982. Special Civil Application No.5313 of 1983 challenging the decision in M.V.Appeal No.1062 of 1983 is in the matter of assessment for the year 1981-82 and Special Civil Application No.1191 of 1984 against the decision in M.V.Appeal No.2389 of 1982 is against the assessment for the year 1982-83. As both these Special Civil Applications are directed against the common order dated 4th August, 1983 passed by the Small Causes Court at Ahmedabad, we propose to decide both these Special Civil Applications by this common judgment and order.

2. The premises in question are occupied by the respondent Reliance Textile Industries on the rear first floor at P.K.House, Near Ellisbridge Railway Crossing, Ahmedabad taken on lease at a monthly rent of Rs.2,500/excluding tax and the first floor area admeasures 578 sq. ft. The premises in question bears the final plot No.558/1/2/FF/4 in Ellisbridge B. Ward. The Municipal Corporation has assessed the gross rateable value at Rs.40530/- for the period from 1-4-1981 to 31-3-1982 and also for 1982-83. The assessment made by the Municipal Corporation was challenged by the respondent herein by way of filing an appeal under sec.406 of BMC Act before the Small Causes Court. The Small Causes Court while deciding two M.V.Appeal Nos.1062 of 1982 and 2389 of 1982 in its order dated 4th August, 1983 has observed in para 5 that the area of the office room is 57.80 sq.mts. and the rent of Rs.2,500/- per month for such a small office room is really exorbitant on the face of it and, therefore, while referring to Divan Daulatkapur's case decided by the Supreme Court reported in AIR 1980 SC page 541 has reduced the gross rateable value from Rs.40,530/-to that of Rs.1914/-only. We find that while no reasons have been given and no material had been placed on record so as to justify the reduction of the gross rateable value from Rs.40,530/- to Rs.1914/-, the Small Causes Court has observed in para 6 of the order that it has decided number of appeals for the premises on Ashram Road; while making reference to the premises round about the Town Hall at Ahmedabad it has been observed that after considering the comparable instances in most of those appeals, he had earlier fixed the reasonable and expected rent for business premises on the ground floor of the building situated on the main Ashram Road at Ahmedabad about Rs.4.00 or Rs.4.50 per

sq.mt. It has been further mentioned that in the instant case, it was submitted that the building at B.M.Institute was situated more prominently than the premises in question and that had been assessed by the Municipal Corporation itself at the rate of Rs.2.25 per sq.mt. and the premises in question should have been assessed at little less than that. It has been then observed that the building on B.M.Institute is an educational institution and, therefore, instead of following the same instance, the reasonable and expected rent has been decided at Rs.3/-per sq.mt. for the premises on the ground floor of the building known as Sanskrit Bhavan which is about 500 ft. inside Ashram Road in some earlier case, i.e. M.V. A. No.1541 of 1981 on 6-5-19183. It has also been observed in the impugned order that the premises in question was situated near the Gujarat College Railway Crossing and, therefore, reasonable and expected rent can be fixed at Rs.2.45 per sq.mt. and on that basis by taking the round figure the rent of the premises in question has been taken to be Rs.159.50 only and the rateable value has been fixed at Rs.1914/-.

3. We find with regrets no less than surprise that such reasons cannot form the basis for the purpose of determining the gross rateable value. Either there must be an expert evidence on this aspect of the matter so as to determine the rent or standard rent in absence of contractual rent. Here was a case in which the respondent itself had been paying the agreed amount of rent at the rate of Rs.2,500/- per month and there was no basis to hold that the same was excessive. In the cases in which agreed rent is paid and the same is challenged on the ground that the same is excessive, it is the duty of the concerned Court to first address itself to the material on the basis of which it is to be considered and held that the agreed rent which was being paid was excessive and unless it comes to a finding that the rent which was agreed and which was being paid is highly excessive, there is no question of interfering with that gross rateable value assessed and fixed by the Municipal Corporation by comparing the same with other instances of which neither the facts are known nor the details thereof are available and which cannot be said to have been known to the otherside. The Court hearing such appeals cannot take upon itself to enter into the exercise of comparison with regard to some other premises in some other areas and then determine the gross rateable value. In our opinion, the reasons on the basis of which the Court has fixed the gross rateable value at the rate of Rs.1914/by ignoring the agreed rent of Rs.2,500/- which was being

paid by the respondent are not at all relevant or germane and we find that the order dated 4th August, 1983 is wholly unsustainable and the same deserves to be quashed and set aside.

4. Accordingly, the impugned order dated 4-8-1983 (M.V.Appeals Nos.1062/82 and 2389/82) challenged in these two Special Civil Applications is quashed and set aside. Both these Special Civil Applications are allowed. Rule is made absolute accordingly in these two petitions. In the facts and circumstances of the case, no order as to costs.

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